

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MATHEW J. TOMBERS, on behalf of
himself and all others similarly
situated,

Plaintiff,

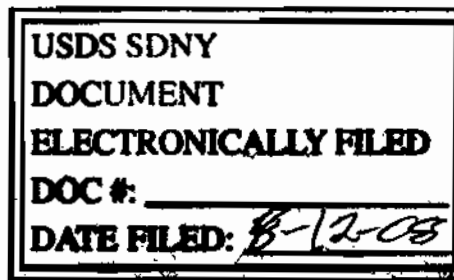
- v -

INDYMAC BANK, F.S.B.,

Defendants.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE



ORDER

08 Civ. 5068 (NRB)

WHEREAS this action was initiated in the Supreme Court of
the State of New York, County of New York; and

WHEREAS on June 3, 2008, defendant Indymac Bank F.S.B.
("Indymac") filed a notice of removal; and

WHEREAS on June 30, 2008, plaintiff filed a motion to
remand to state court for lack of federal jurisdiction; and

WHEREAS the Court had ordered that Indymac's opposition to
plaintiff's motion to remand, along with its motion to dismiss,
be due on July 17, 2008; and

WHEREAS on July 17, 2008, after being informed that Indymac
had been closed by the Office of Thrift Supervision and that the
Federal Deposit Insurance Corporation (the "FDIC") had been
appointed receiver of Indymac, the Court granted an extension on

the briefing schedule for the above motions, making Indymac's opposition due August 1, 2008; and

WHEREAS on August 1, 2008, counsel for the FDIC moved to substitute itself for Indymac as the real party in interest and requested a 90-day stay; and

WHEREAS Section 1821(d)(12) of the Federal Deposit Insurance Act, 12 U.S.C. § 1821(d)(12), provides that the FDIC is entitled to a stay of up to 90 days of any civil action or legal proceeding to which an insured depository institution, in receivership, has become a party; and


WHEREAS the action already has been effectively stayed for 24 days from July 17, 2008, when "by instruction of the FDIC," counsel for Indymac requested, and the Court granted, an extension of the briefing schedule, it is hereby

ORDERED that the FDIC's motion to substitute itself for Indymac as the real party in interest is granted; and it is further

ORDERED that the case be recaptioned accordingly; and it is further

ORDERED that the case be stayed until October 15, 2008, that the FDIC's opposition to plaintiff's motion to remand is due November 5, 2008, and that plaintiff's reply is due November 19, 2008.

Dated: New York, New York
August 11, 2008


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

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